



DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF PERSONNEL MANAGEMENT

*Acts of the Eighty-fifth General Assembly -Regular
Session 2005*



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Performance-Based Budgeting Eliminated for State Agencies

Act 237 of 2005 - Repeals Arkansas Code § 19-4-519 © pertaining to performance-based budget transfers and performance-based budgeting because SAP, the contracted vendor failed to provide the performance-based budgeting component of the Arkansas Administrative Statewide Information System (AASIS).

Employment of Extra Help and Personal Services Classifications to be Based on a Fiscal Year Basis

Act 251 of 2005 - Amends Arkansas Code § 6-63-314 by making employment of extra help employment in institutions of higher education and regular state agencies and institutions to be on a *fiscal year* basis, and Arkansas Code § 19-4-521 concerning personal service [regular full-time, part-time, extra-help employees, employer matching costs, employer special or extra compensation, overtime earnings, and other employee benefits that are legally authorized] to require all special remuneration received by eligible state employees in addition to their regular salary that is authorized by law to be on a *fiscal year* basis.

The Patient Protection Act of 2005

Act 490 of 2005 - Amends Arkansas Code Title 23, Chapter 99 to add a new subchapter to protect a patient's right to see the health care provider of his or her choice and prohibit discrimination against any health care provider who is located within the geographic coverage area of the health benefit in which the providers wishes to participate when the provider is willing to meet the terms

and conditions for participation as established by the health insurer. The effect of Act 490 is contingent upon the decision yet to be rendered by the Eighth Circuit Court of Appeals in *Prudential Insurance Co., et al. v. HMO Partners, Inc., et al.*, U.S.C.A. No. 04-1465/04-1644.

Leaves of Absence for Treatment of Military Service-Connected Disabilities

Act 653 of 2005 - Amends Arkansas Code Title 21, Chapter 4, Subchapter 1 to add an additional section, 21-4-105 to allow all state employees who have been rated by the United States Department of Veterans Affairs or its predecessor to have incurred a military service-connected disability and have been scheduled



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by the United States Department of Veterans Affairs to be reexamined or treated for the disability shall be eligible for a period of leave of absence not to exceed six days during any one calendar year in addition to the employee's regular salary, and regular annual and sick leaves. The employee maintains all benefits, rights, and privileges to which he or she is entitled during the period of the leave of absence.

Incentives for the Improvement of State Employee Health

Act 724 of 2005 - Amends Arkansas Code Title 21, Chapter 4, Subchapter 2 to grant at the discretion of the agency director, a state employee [a full-time employee of the State of Arkansas or any branch, department, agency, board, bureau, including the Bureau of Legislative Research, or commission of state government] up to three (3) days of paid leave per calendar year for satisfactory compliance with the Healthy Employee Lifestyle Program once the Department of Health and Human Services has developed, piloted and made the Healthy Lifestyle Program available to state agencies. The leave is not compensable at termination. The Act also requires each state agency if practicable, to identify and maintain an area or areas that state employees may use for walking exercise in or near each agency building.

Hours of Employment Clarified for Children Under Age 18

Act 939 of 2005 - Amends Arkansas Code § 11-6-110 to clarify the hours of employment for children sixteen (16) and seventeen (17) by stating that children under the age of eighteen (18) may not work in any occupation more than ten

(10) *consecutive* hours in any one (1) day, more than ten (10) hours in a twenty-four-hour period, or before 6:00 a.m. or after 11:00 p.m., except the provision shall not apply to children under the age of eighteen (18) years who are employed on nights preceding *non-school* days in occupations determined by rule of the Arkansas Department of Labor to be sufficiently safe for their employment.

Two-Year Colleges May Compensate Employees for Unused Sick Leave at Retirement

Act 971 of 2005 - Amends Arkansas Code Title 21, Chapter 4, Subchapter 5 to add Subsection 21-4-505 to allow employees of two-year colleges to be paid for unused sick leave at retirement provided such compensation shall not be used by



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the Arkansas Teacher Retirement System in the calculation of final average salary under § 24-7-202(14).

Study to Revise the Classification and Compensation Plan

Act 1015 of 2005 – Requires the Office of Personnel Management and Bureau of Legislative Research to conduct a study of the current state employee pay plan and classification system and offer recommendations to the Arkansas Legislative Council no later than October 1, 2006 to revise the State Classification and Compensation Plan with quarterly progress reports to the Governor and/or to the Arkansas Legislative Council of the Joint Budget Committee or a subcommittee of either one as determined and appointed by the co-chairs of committees.

APERS Members Allowed to Purchase Credit for Out-of-State Governmental Service

Act 1021 of 2005 – Amends Arkansas Code Title 24, Chapter 4, Subchapter 7 to add an additional section that allows a vested member of the Arkansas Public Employees Retirement System to purchase up to five (5) years of out-of-state governmental service provided that such service does not entitle such member to a vested deferred benefit in another retirement system. The Act becomes effective July 1, 2005.

APERS' Members May Purchase Service Credit for Time in the National Guard or Armed Forces Reserve

Act 1027 of 2005 – Allows vested members of Arkansas Public Employees Retirement System to purchase service credit for one (1) year of purchased service credit for every five (5) years of compensated service in the Arkansas National Guard or the Armed Forces Reserve. The Act becomes effective 90 days after the end of the Legislative Session. Service credit in the System for active duty military service and for service in the Arkansas National Guard or Armed Forces Reserve shall not be given for the same period of time.

Retention and Availability Bonus for Eligible Certified Speech-Language Pathologists

Act 1187 of 2005 – Provides for the payment of a yearly incentive bonus of five thousand dollars (\$5,000) to a certified speech-language pathologist who meets certain qualifications to ensure the availability and retention of certified speech-



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language pathologists. Certified Speech-Language Pathologists employed by the Blind and Deaf Schools may be eligible.

Retired State Employees Who Return to be Allowed to Retain Payment for Unused Sick Leave

Act 1188 of 2005 – Amends the General Accounting and Budgetary Procedures law, Arkansas Code § 19-4-1613 pertaining to lump-sum terminal pay, to allow an employee who receives compensation for unused sick leave at retirement and returns to state employment, to retain the payment without being required to wait until the expiration of the number of days for which he or she received the payment before returning to state employment.

State Employees on Paid Sick Leave With One State Agency Prohibited from Receiving Salary or Other Compensation from Another State Agency

Act 1189 of 2005 – Amends Arkansas Code § 19-4-1604 which governs the drawing of salary from two agencies by state employees to add Section (3) which disallows a state employee on paid sick leave with a state agency from receiving a salary or compensation from another state agency.

Classified Employees of State-Supported Institutions of Higher Learning May Be Compensated for Unused Sick Leave at Retirement

Act 1288 of 2005 – Amends Arkansas Code § 21-4-503 to allow classified employees of state-supported institutions of higher learning to be paid for unused sick leave at retirement provided such compensation shall not be used by the Arkansas Teacher Retirement System in the calculation of final average salary under §24-7-202(14).

Misappropriation of Social Security Numbers Prohibited

Act 1295 of 2005 – Amends Arkansas Code Title 4, Chapter 86, Subchapter 1 to add a new section that prohibits the misappropriation of Social Security Numbers by public posting of any kind, printing on any card required for an individual to access products or services, or postcard or other mail not requiring an envelope or in a manner in which the social security number is visible on the envelope or without the envelope being opened or requiring an individual to transmit his or her social security number over the Internet unless the connection is secure or the social security number is encrypted. The Act becomes effective



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on January 1, 2007 and gives the Attorney General the authority to prosecute for violations of the Act with the possibility of civil penalties of up to two hundred fifty dollars (\$250) per violation along with the cost of attorney's fees and other costs associated with the investigation and prosecution.

Growth Pool Established for Two-Year Institutions of Higher Education

Act 1531 of 2005 - Requires the Department of Higher Education to establish a "growth pool" of two hundred (200) *non-classified* positions for the two-year institutions of higher education. It also requires the Office of Personnel Management of the Department of Finance and Administration to establish a "growth pool" of (100) *classified* positions at up to grade twenty-six (26) to be used by two-year institutions of higher education.

State Agencies to Report the Number and Reason for Vacant Budgeted Positions

Act 1686 of 2005 - Amends Arkansas Code § 19-4-609 to require each executive, judicial, legislative, institution of higher education and any other agency of the state to report on a calendar-monthly basis the number of current vacant *budgeted* positions, and a statement of the reasons for the vacant *budgeted* positions on a quarterly basis.

State Employees Prohibited from Retaining Witness or Mileage Fees When Subpoenaed as a Witness for a Matter Within the Scope of Their Employment

Act 1845 of 2005 - Amends Arkansas Code § 21-4-213 to add a new section that states a state employee is entitled to his or her salary when subpoenaed as a witness to give a deposition or testimony in state or federal court or before any body with power to issue a subpoena, if the employee is a witness within the employee's scope of state employment or outside the employee's scope of state employment and the employee is not serving as a paid expert witness or is not a party to the matter. The employee is required to take annual leave to attend the deposition, hearing, or appear in court only if the matter is outside of the employee's scope of state employment and the employee is serving as a paid expert witness or is a party to the matter.

The Act also amends Arkansas Code Title 16, Chapter 43, Subchapter 8 to add a new section that prohibits a state employee from retaining witness or mileage fees when subpoenaed as a witness for a matter that is within the scope of the employee's employment. The employee may retain any witness fees only if the



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matter is outside the employee's scope of state employment or the employee is a party to matter other than as a representative of the state employer. The employee may retain the mileage fees only for a matter within the employee's scope of state employment and uses a personal vehicle for travel in obeying the subpoena and the employer does not reimburse the employee for travel expenses, or the matter is outside the employee's scope of state employment and the employee does not use a state-owned vehicle for travel in obeying the subpoena. If the state employee is subpoenaed to appear on a non-work day, the employee may retain any witness and mileage fees paid him or her.

Law enforcement officers are excluded from these provisions and may retain witness and mileage fees paid to them. "*Law enforcement officer*" means any public servant vested by law with a duty to maintain public order or to make arrests for offenses.

Uniform Classification and Compensation Act Amendments - Classifications and Compensation Levels

Act 1852 of 2005 - Establishes the classifications (job titles) and compensation levels of state employees covered by the Uniform Classification and Compensation Act.

New State Employees Required to be Paid by Direct Deposit

Act 1887 of 2005 - Requires new state employees to accept payment of salaries by electronic warrant transfer in the form of a direct deposit as a condition of employment, unless the person can demonstrate a direct hardship in meeting the requirement and the State Chief Fiscal Officer approves a requested exemption for the requesting employee.

Deadline Set for APERS Members to Make Election Under New Contributory Program

Act 2084 of 2005 - Provides for a new contributory program for APERS members hired on or after July 1, 2005 and those non-contributory members who elect to become contributory. Members participating in the contributory program will contribute five percent 5% of their annual compensation, pre-tax (taxes are deferred). All active APERS members employed before July 1, 2005, will have six (6) months to elect coverage under the contributory program. The deadline to elect to be contributory is December 31, 2005. The contributory program does not provide for a temporary annuity for participants. However, the contributory



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program does provide for a higher multiplier two percent (2.0%) that is utilized to calculate the member's retirement benefit.

Employees of State Agencies, State-Supported Institutions of Higher Education, and Public School Districts Become Eligible to Receive Compensation If Called to active Duty in Emergency Activities After September 11, 2001

Act 2113 of 2005 – Provides that during the period that an employee of a state agency, or institution of higher education, or public school district is called to active duty of an emergency or contingency nature after September 11, 2001, as a member of the National Guard or any of the reserve components of the armed forces by order of the President of the United States or the Governor of the State, the employee shall be eligible for continued proportionate salary payments which when combined with the employee's active duty pay, incentives, and allowances, except for uniform and clothing allowances, equals the amount that the employee would have received prior to being called to active duty under the order of the President or the Governor. The Act requires the Department of Finance and Administration to establish applicable procedures for administration of the provisions relative to state agencies and state-supported institutions of higher education, and the Department of Education as relates to the public school districts.

"Growth Pool" of Positions Established for the Four-Year Institutions of Higher Education

Act 2172 of 2005 – Requires the Department of Higher Education to establish a "growth pool" of 150 *non-classified* positions for the four-year institutions of higher education. It also requires the Office of Personnel Management to establish a "growth pool" of 150 *classified* positions at up to grade 26 for the four-year institutions of higher education.

Uniform Classification and Compensation Act Amendments

Act 2198 of 2005 - Establishes the grades and pay levels for positions covered by the Uniform Classification and Compensation Act for the 2005-2007 Biennium and implementation procedures for grade changes and salary adjustments on June 30, 2005 based on a graduated scale as follows:

- an employee whose salary is twenty thousand dollars (\$20,000) or less, is eligible for an annual increase of six hundred dollars (\$600);



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- an employee whose salary is more than twenty thousand dollars (\$20,000) but not more fifty thousand dollars (\$50,000), is eligible for an annual salary increase of six hundred dollars (\$600) plus three percent (3%) percent of the amount that the employee's June 30 salary exceeds twenty thousand dollars (\$20,000);
- an employee whose salary is fifty thousand dollars (\$50,000) but not more than ninety thousand dollars (\$90,000), is eligible for an annual increase of one thousand five hundred dollars (\$1,500) plus one and nine tenths percent (1.9%) of the amount that the employee's June 30 salary exceeds fifty thousand dollars (\$50,000); and
- an employee whose salary is more than ninety thousand dollars (\$90,000), the employee is eligible for an annual salary increase of two thousand two hundred sixty dollars (\$2,260) plus one and five tenths percent (1.5%) of the amount that the employee's June 30 salary exceeds ninety thousand dollars (\$90,000).

Additional highlights of the changes Act 22 provides include:

- Allows the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration to develop a "Statewide Nursing Grid" along with implementing rules and regulations for attracting and retaining classified nursing personnel subject to review and approval by the Legislative Council.
- Extends lump sum severance pay benefits through June 30, 2007 for classified and unclassified employees who are affected by an implementation of the state workforce reduction policy on the basis of the following lump sum for completed years of service including probationary period: (a) 1-5 years---eight hundred dollars (\$800); (b) 5-15 years--twelve hundred dollars (\$1200); and (c) over 15 years--sixteen hundred dollars (\$1600).

Provisional Positions Established for Institutions of Higher Education

Act 2200 of 2005 – Establishes the authorized number of provisional positions for the biennium for each institution of higher education.



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Hiring of Relatives by Public Officials is Prohibited

Act 2262 of 2005 - Amends Arkansas Code Title 25, Chapter 16 to add a new subchapter that prohibits a public official from appointing, employing, promoting, advancing, or advocating for appointment, employment, promotion, or advancement, in or to a position in the state agency in which the official is serving or over which the official exercises control or authority, a relative of the public official, after the effective date of the Act. In addition, the Act provides that no employees who are related shall be placed within the same direct line of supervision whereby one (1) relative is supervised by another relative. If two state agency employees marry after the effective date of the Act, the violation shall be resolved by transfer of one of the employees to another position within the agency, to another state agency, resignation of one of the employees with opportunity being given for the two employees to select and agree upon the alternatives. If agreement on the alternative for resolution of the violation is not reached by the employees within sixty days of the notice required under the Act, then the public official shall take action to eliminate the violation. The Act also establishes penalties for violation of the provisions of the Act and requires the Office of Personnel Management of the Department of Finance and Administration to develop and implement rules of administration and enforcement of the provisions of the Act.

State Agencies Required to Include Contact Information on State Agency Communications, Forms, Notices, Announcements, Publications, and Other Similar Documents

Act 2263 of 2005 - Requires each state agency to include contact information e.g., a telephone number for inquiries or comments and, to the extent practicable, the name of a contact person on any communication, form, notice, announcement, publication, or other similar document state agency after July 1, 2005. The requirement does not apply to communications, forms, notices, announcements, publications, or other similar documents in existence on July 1, 2005, but shall apply to such documents as they are created, revised, and reordered after July 1, 2005.

Stipend Positions and Payments for Boards and Commissions

Act 2298 of 2005 - Grants the State Chief Fiscal Officer the authority to create positions as well as salary and personal services matching appropriation as necessary for State Agencies to issue W2 Forms in compliance with the United States Internal Revenue Service Code pertaining to payment of board and



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commission members. For the purpose stated, a board or commission member who receives a stipend payment as provided in A.C.A. §25-16-903 through §25-16-905 shall now be considered employees of the State.

NEW AGENCIES, BOARDS, COMMISSIONS, AGENCY NAME CHANGES AND MERGERS

NAME CHANGES

Agency Old Name	Agency New Name	Act Number
Post Prison Transfer Board	Parole Board	Act 1033
Arkansas Soil and Water Conservation Commission	Arkansas Natural Resources Commission	Act 1243
Arkansas Department of Human Services	Arkansas Department of Health and Human Services	Act 1954



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MERGERS/TRANSFERS

Current Name	Combined With	Act Number
Arkansas Code Revision	Bureau of Legislative Research	Act 1260
Arkansas Department of Health	Arkansas Department of Health and Human Services	Act 1954

NEW AGENCIES, BOARDS, COMMISSIONS

Agency Name	Act Number
Arkansas Agriculture Department	Act 1978
Arkansas Teacher Housing Development Foundation	Act 2044